

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

FTX TRADING LTD., *et al.*,¹

Debtors.

Chapter 11

Case No. 22-11068 (JTD)

(Jointly Administered)

**DECLARATION OF EDGAR W. MOSLEY II IN SUPPORT OF DEBTORS'
OBJECTION TO MOTION OF THE JOINT PROVISIONAL LIQUIDATORS FOR A
DETERMINATION THAT THE U.S. DEBTORS' AUTOMATIC STAY DOES NOT
APPLY TO, OR IN THE ALTERNATIVE FOR RELIEF FROM STAY FOR FILING OF
THE APPLICATION IN THE SUPREME COURT OF THE COMMONWEALTH OF
THE BAHAMAS SEEKING RESOLUTION OF NON-US LAW AND OTHER ISSUES**

I, Edgar W. Mosley II, hereby declare under penalty of perjury as follows:

1. I am a Managing Director at Alvarez & Marsal North America, LLC (“A&M”), a restructuring advisory services firm specializing in interim management, crisis management, turnaround consulting, operational due diligence, creditor advisory services, and financial and operation restructuring. I am over the age of 18 and authorized to submit this Declaration on behalf of each of the Debtors.²

2. I have more than 20 years of restructuring and distressed investment experience across various industries, including oil & gas, manufacturing, transportation, automotive, retail, industrial construction, telecommunications, healthcare, and consumer

¹ The last four digits of FTX Trading Ltd.’s and Alameda Research LLC’s tax identification numbers are 3288 and 4063 respectively. Due to the large number of debtor entities in these Chapter 11 Cases, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors’ claims and noticing agent at <https://cases.ra.kroll.com/FTX>. The principal place of business of Debtor Emergent Fidelity Technologies Ltd is Unit 3B, Bryson’s Commercial Complex, Friars Hill Road, St. John’s, Antigua and Barbuda.

² Terms not defined herein shall have the meaning ascribed to them in the Objection.

products. I have a Bachelor's Degree from Harvard University, and have been recognized as a Certified Insolvency and Restructuring Advisor by the Association of Insolvency and Restructuring Advisors, where I served on the board from 2019 until 2020.

3. Since joining A&M, I have been involved in numerous Chapter 11 restructurings including Seadrill Limited (2020 and 2017), Valaris plc, Diamond Offshore Drilling, Inc., Imerys Talc America, White Star Petroleum, Southcross Energy, Magnum Hunter Resources, Exide Technologies (where I served as the Chief Restructuring Officer), and Visteon Corporation.

4. On November 9, 2022, the Debtors retained A&M. Since A&M's retention, I supervise the team at A&M that works as financial advisor to FTX Trading Ltd. and its affiliated debtors and debtors-in-possession (collectively, the "Debtors"). I and the team of A&M professionals I oversee, have and continue to, among other things, (i) assist the Debtors' Chief Financial Officer oversee the Debtors' finances; (ii) develop a claims portal and a comprehensive claims filing process; and (iii) identify reliable books and records and to assemble the information necessary to support the Debtors in their Chapter 11 Cases and the ongoing investigations, and to provide information to parties in interest and the Court, as appropriate.

5. I submit this declaration (the "Declaration") in support of *Debtors' Objection to Motion of the Joint Provisional Liquidators for a Determination that the U.S. Debtors' Automatic Stay Does Not Apply to, or in the Alternative for Relief from Stay for Filing of the Application in the Supreme Court of the Commonwealth of The Bahamas Seeking Resolution of Non-Us Law And Other Issues* ("Objection"). I am not being compensated separately for this testimony other than payments received by A&M as an advisor retained by the Debtors.

6. Except as otherwise indicated, all facts set forth in this Declaration are based upon (i) my personal knowledge, information, and belief, or my opinion based upon experience, knowledge, and information concerning the Debtors; (ii) information learned from my review of relevant documents and information concerning the Debtors' operations and financial affairs; and/or (iii) information obtained from the Debtors and their advisors, including the A&M team working under my supervision. If I were called upon to testify, I could and would testify competently to the facts set forth in this Declaration on that basis. I am authorized to submit this Declaration on behalf of the Debtors.

A. The FTX Debtors and FTX DM

7. Alameda Research LLC, one of the Debtors, was founded on November 20, 2017 by Samuel Bankman-Fried and Zixiao "Gary" Wang. Attached hereto as Exhibit A is a true and correct copy of Alameda's certificate of formation.

8. FTX Trading Ltd. (also referred to as FTX.com) was founded on April 2, 2019 by Mr. Bankman-Fried, Mr. Wang, and Nishad Singh. Attached hereto as Exhibit B is a true and correct copy of FTX Trading Ltd.'s certificate of incorporation.

9. West Realm Shires Services, Inc. (d/b/a FTX US) was founded on January 29, 2020 by Messrs. Bankman-Fried, Wang, and Singh. Attached hereto as Exhibit C is a true and correct copy of West Realm Shires Services, Inc.'s certificate of incorporation.

10. The relationship between customers and the FTX.com trading platform were governed by the 2019 and then the 2020 Terms of Service. Attached hereto as Exhibit D and Exhibit E are true and correct copies of 2019 and 2020 Terms of Service, respectively, identified in the Debtors' records during the ongoing investigations into the Debtors' affairs, titled "FTX Exchange: Terms of Service."

11. FTX Digital Markets (“FTX DM”) was incorporated in The Bahamas on July 22, 2021. Attached hereto as Exhibit F is a true and correct copy of FTX DM’s certificate of incorporation.

12. Shortly after it was incorporated, FTX DM submitted an Application for Registration as Digital Asset Business (the “Registration Application”) to the Securities Commission of The Bahamas (the “Commission”). Attached hereto as Exhibit G is a true and correct copy of the Registration Application, identified in the Debtors’ records during the ongoing investigations into the Debtors’ affairs. The Commission subsequently approved FTX DM’s Registration Application.

13. In May 2022, the Debtors’ records indicate that Mr. Bankman-Fried (and/or others acting at his direction) introduced new terms of service for FTX.com customers, by posting them to the FTX.com website. Attached hereto as Exhibit H is a true and correct copy of a document titled “FTX Terms of Service,” dated May 13, 2022.

B. The FTT Transfer to the Commission

14. On the evening of November 12, 2022, the Debtors observed the movement of primarily a large volume of formerly non-circulating FTT tokens—the native cryptocurrency of the FTX.com exchange—from a cryptocurrency wallet that the Debtors previously had used to release additional FTT tokens for circulation.

15. Attached as Exhibit I is a true and correct copy of Slack messages, identified in the Debtors’ records during the ongoing investigations into the Debtors’ affairs, from Gary Wang to an internal FTX Slack channel, dated November 13, 2022.

16. Attached hereto as Exhibit J is a true and correct copy of a media release from the Commission entitled “Securities Commission Statement on Transfer Motion In FTX

Digital Markets Chapter 15 Proceedings," dated November 23, 2022, and accessed at <https://www.scb.gov.bs/wp-content/uploads/2022/11/SCB-Issues-Statement-on-Transfer-Motion.pdf>.

17. Attached as Exhibit K is a true and correct copy of a letter from Christina Rolle to Jean-Louis Van Der Velde, dated November 12, 2022.

18. Attached as Exhibit L is a true and correct copy of an email, identified in the Debtors' records during the ongoing investigations into the Debtors' affairs, from Sam Bankman-Fried to Christina Rolle and Brian C. Simms KC, dated November 13, 2022.

C. The Harm to Debtors and Creditors

19. As of the April 12, 2023 hearing, the Debtors' estates have in their possession approximately \$7.3 billion in liquid assets, and potentially significantly more in assets which have yet to be recovered or monetized. Based on a review of FTX DM's financial records by the A&M team under my direction, the JPLs, on behalf of FTX DM, currently have in their control no more than \$30 million in liquid assets. This is consistent with the disclosures made by the JPLs on page 12 of their February 8, 2023 First Interim Report and Accounts ("JPLs' First Interim Report"), available at <https://www.pwc.com/bs/fdm>. I also understand that Debtors have asserted avoidance claims against the JPLs in the Adversary Complaint pending before this Court relating to any assets controlled by FTX DM.

20. The Debtors are not aware of any customers of FTX DM who are not also creditors of FTX Trading or other Debtors. The Debtors' expectation is that all customers of the FTX.com exchange who suffered losses will have claims against the Debtors for those losses, irrespective of any claims against FTX DM.

21. In my opinion, the Debtors will be prejudiced by the confusion created from proceedings in the Bahamas Court concerning customer entitlements and the Debtors' assets at this critical juncture in the Chapter 11 Cases. The Debtors' reorganization efforts have already been impacted by the JPLs' actions. For example, the JPLs have:

- Attempted to cloud title to assets that have been marshaled by the Debtors and are available to be distributed to customers and other creditors in a plan of reorganization, including, but not limited to, statements in the JPLs' First Interim Report referencing allegedly \$7.7 billion in transfers "from FTX DM" to FTX Trading or Alameda (JPLs' First Interim Report at 12, 14, 16), and other similar statements made by the JPLs in hearings and filing submitted to this Court;
- Interfered with the Debtors' efforts to negotiate settlements with targets of avoidance actions by filing a position statement in response to a stipulation entered into between Alameda and Voyager Digital, asserting FTX DM may hold the claims and seeking a veto over settlements [*see D.I. 819*];
- Announced publicly a claims "portal" and claims resolution procedure that gets ahead of the forthcoming claims bar date and resolution process of the Debtors, creating confusion among stakeholders; and
- Served and were forced to rescind a notice of default with respect to Debtor FTX Property Holdings Ltd.

22. The Debtors provided the JPLs a copy of their AWS database, which includes certain customer information, pursuant to the NDA and in furtherance of the Cooperation Agreement. In addition, I understand that the JPLs sent email letters to customers soliciting customer information from the Debtors' customers with customer data. Attached hereto as Exhibit P is a copy of one such letter I have been provided. I have been made aware of reports of confusion caused by this outreach. One such example on Twitter, excerpting the letter and noting confusion, is found in the April 4 tweet from an account with user name @ftxreload, accessible at<https://twitter.com/ftxreload/status/1643175954464874497?s=46&t=AKP-gPzyBPkHcgTOTJPtxg>. As of the date of this filing, the Tweet had 4,032 views.

Attached hereto as Exhibit M are true and correct copy of screenshots of the aforementioned Tweet.

23. The Debtors will also have a difficult time fully and adequately protecting their rights in The Bahamas. On March 23, 2023, the Debtors submitted an application for the special admission of David William Allison KC to the Bahamas Bar Council, which I understand to be similar to a *pro hac vice* motion in the United States and allows a foreign citizen to represent a client in particular proceedings in The Bahamas, which to date has not been granted.

24. On April 27, the Bar Council sent a letter in response to the Debtors' application. Attached hereto as Exhibit N is a true and correct copy of the letter from Tara Knowles, Secretary to the Bar Council, to Jason T. Maynard, dated April 27, 2023.

25. Attached as Exhibit O is a true and correct excerpted copy of a transcript provided to me of a hearing held in *In re Voyager Digital Holdings, Inc.*, Case No. 22-10943 (Bankr. S.D.N.Y) on January 24, 2023.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed in Dallas, Texas on May 3, 2023

/s/ Edgar W. Mosley II
Edgar W. Mosley II